

Securities and Exchange Commission

§ 201.33

- RULES REGARDING DISGORGEMENT AND
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- 201.601 Prompt payment of disgorgement,
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- INFORMAL PROCEDURES AND SUPPLEMENTARY
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- 201.1105 Administration of plan.
- 201.1106 Right to challenge.

AUTHORITY: 15 U.S.C. 77s, 77sss, 78w, 78x,
80a–37, and 80b–11; 5 U.S.C. 504(c)(1).

SOURCE: 47 FR 610, Jan. 6, 1982, unless oth-
erwise noted.

Subpart A [Reserved]

Subpart B—Regulations Pertaining
to the Equal Access to Justice Act

§ 201.31 Purpose of these rules.

The Equal Access to Justice Act, 5 U.S.C. 504 (called *the Act* in this sub-
part B), provides for the award of at-
torney fees and other expenses to eligi-
ble individuals and entities who are
parties to certain administrative pro-

ceedings (called *adversary adjudications*)
before the Commission. An eligible
party may receive an award when it
prevails over the Commission, unless
the Commission’s position was sub-
stantially justified or special cir-
cumstances make an award unjust. The
rules in this subpart describe the par-
ties eligible for awards and the pro-
ceedings that are covered. They also
explain how to apply for awards, and
the procedures and standards that the
Commission will use in ruling on those
applications.

[54 FR 53051, Dec. 27, 1989]

§ 201.32 When the Act applies.

The Act applies to adversary adju-
dications described in § 201.33 pending
or commenced before the Commission
on or after August 5, 1985. It also ap-
plies to any adversary adjudication
commenced on or after October 1, 1984,
and finally disposed of before August 5,
1985, provided that an application for
fees and expenses, as described in these
rules, has been filed with the Commis-
sion within 30 days after August 5, 1985.
Proceedings which have been substan-
tially concluded are not deemed pend-
ing under these rules although offi-
cially pending for purposes such as con-
cluding remedial actions found in Com-
mission orders or private undertakings.

[54 FR 53051, Dec. 27, 1989]

§ 201.33 Proceedings covered.

(a) The Act applies to adversary adju-
dications conducted by the Commis-
sion. These are on the record adjudica-
tions under 5 U.S.C. 554 in which the
position of an Office or Division of the
Commission as a party, not including
amicus participation, is presented by an
attorney or other representative who
enters an appearance and participates
in the proceeding. *See* appendix, 17 CFR
201.60.

(b) The fact that the Commission has
not identified a type of proceeding as
an adversary adjudication shall not
preclude the filing of an application by
a party who believes the proceeding is
covered by the Act; whether the pro-
ceeding is covered will then be an issue
for resolution in proceedings on the ap-
plication.